IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	**Confirmation No. 7270**
Hiroaki MASUYAMA et al.	:	Attorney Docket No. 2006_0588A
Serial No. 10/576,585	:	Group Art Unit No. 3694
Filed April 20, 2006	:	Examiner Mary M. Gregg
SYSTEM FOR EVALUATING ENTERPRISE AND PROGRAM FOR EVALUATING ENTERPRISE	:	**Mail Stop Amendment**

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

THE COMMISSIONER IS AUTHORIZED TO CHARGE ANY DEFICIENCY IN THE FEES FOR THIS PAPER TO DEPOSIT ACCOUNT NO. 23-0975

Sir:

Pursuant to the restriction set forth in the Office Action mailed October 2, 2008, the Applicants hereby elect Invention III, claims 11-14, 24/13, 24/14, 38-41, 51/40 and 51/41, with traverse.

The present application is a national stage application under 35 U.S.C. § **371**. Unity of invention, not restriction practice pursuant to 37 CFR **1.141 - 1.146**, is applicable in international applications (both Chapter I and II) and in national stage applications under 35 U.S.C. § **371** (see MPEP § 1893.03(d) and corresponding PCT Rule 13.1). Thus, the present application is subject to unity of invention requirements, not restriction practice pursuant to 37 CFR **1.141 - 1.146**.

When making a lack of unity of invention requirement, Examiners **MUST** (1) list the different groups of claims and **MUST** (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group (see MPEP § 1893.03(d) and PCT Rule 13).

In the restriction requirement, the Examiner did not discuss the applicable unity of invention under PCT Rule 13.1. Moreover, the Examiner did not explain why there is no single general inventive concept and did not identify the unique special technical feature in each group.

Instead, the Examiner asserted that Inventions I-V detailed in the Restriction Requirement are "independent or distinct" and that there would be a serious search and examination burden if restriction were not required. However, unity of invention is not denied on the basis of being "independent or distinct" or on the basis of a "serious search and examination burden." Moreover, by virtue of applying an "independent or distinct" standard, the Examiner has applied restriction practice pursuant to 37 CFR **1.141 - 1.146**, which as discussed above is improper, as the basis for the restriction requirement. Consequently, the Applicants respectfully submit that the Restriction Requirement is improper because the Examiner has applied U.S. restriction practice pursuant to 37 CFR **1.141 - 1.146**, and not unity of invention pursuant to MPEP § 1893.03(d) and corresponding PCT Rule 13.1.

For at least the reasons set forth above, the Applicants respectfully request withdrawal of the restriction and a full examination on the merits of all of the claims in the present application.

If there are any issues that the Examiner feels may best be resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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